

REMARKS

A. Introduction

In the Office Action claims 1-23 are noted as pending and are rejected based on 35 U.S.C. Section 112, second paragraph and on prior art.

In this Response, claims 1, 22 and 23 are amended, a Rule 131 Declaration is submitted, and remarks are provided.

B. Rejection of Claims 1-23 Under 35 U.S.C. Section 112, Second Paragraph

The independent claims 1, 22 and 23 are rejected as indefinite regarding the meaning of the term "health insurance". These claims have been amended by inserting the qualifier "primary" consistent with the Examiner's understanding.

C. Rejection of Claims 1-23 Based on Prior Art and Presentation of Rule 131 Declaration

Claims 1-23 are rejected as being made "obvious" by a combination of U.S. Published Patent Application No. 2002/0116223, of Bonin et al., and U.S. Published Patent Application No. 2002/0138309, of Thomas Jr.

In regard to independent claim 1, the Examiner believes that Bonin et al. teaches:

Associating a plurality of doctors ... in various locations ... with an organization ... The Examiner considers the execution of the various steps of Fig 1 to be a form of creating an organization to make and market the disclosed videotapes. The Examiner further considers the selected "participating physicians" to be associated with the organization based on each doctor's respective credentials...

However, it is acknowledged that Bonin et al. does not "explicitly disclose" the "charging" and "wherein the organization does not provide health insurance..." steps of independent claim 1. Nevertheless, the Examiner cites Thomas Jr. for teaching:

Charging a membership fee to allow a plurality of members to belong to the organization, the members being permitted to seek any number of visits with any of the associated doctors in any of the various locations ...

Wherein the organization does not provide health insurance, but provides additional medical care regardless of any health insurance a member may already possess ...

The Examiner concludes that it would have been obvious to incorporate the "charging" and "does not provide health insurance" steps supposedly taught by Thomas, Jr. into the Bonin et al. method.

Independent claims 22 and 23 are rejected as obvious for the same reasons as noted above, including at least a reliance on the Bonin et al. and Thomas, Jr. combination.

The present application was filed June 5, 2001. The earliest possible reference date of Bonin et al. appears to fall under 35 U.S.C. Section 102 (e)(1), i.e., the filing date of the provisional from which it claims priority (assuming the provisional provides support for the subject matter of the published application upon which the Examiner relies), i.e., February 20, 2001, less than four months prior to the filing date of the present application. The earliest possible reference date of Thomas, Jr. appears to fall under 35 U.S.C. Section 102 (e)(1), i.e., the filing date of the provisional from which it claims priority (again assuming the provisional provides support for the subject matter of the published application upon which the Examiner relies), i.e., March 23, 2001, less than three months prior to the filing date of the present application. Applicant expressly reserves the right to challenge the sufficiency of the disclosure of the provisionals for these published applications under 35 U.S.C. Section 112, should the need arise.

If a reference is a published U.S. Patent Application under 35 U.S.C. § 102(e)(1) that does not claim the same patentable invention as the subject application, the reference can be removed as prior art, provided that it is not a statutory time bar under 35 U.S.C. § 102(b), i.e., it was not published more than one year prior to the U.S. filing date, by showing that the relevant acts establishing completion of applicant's invention occurred before the effective date of the reference. 37 C.F.R. § 1.131; M.P.E.P. § 715.07.

In the present case, each of Bonin et al.'s and Thomas, Jr's effective reference date is within only several months of, and not more than one year prior to, the filing date of the present application.

Submitted herewith is a Rule 131 Declaration of the inventor of the invention described and claimed in the present application. This Declaration indicates that the disclosure for which the Examiner cites Bonin et al. or Thomas Jr. was conceived by him in U.S. prior to the earliest possible reference date thereof, i.e., February 20, 2001. Further, the Declaration indicates that, prior to this date and through constructive reduction of practice, i.e., the filing of the above-referenced application on June 5, 2001, diligence was exercised.

In light of the above, the attached Rule 131 declaration is believed to show invention prior to either Bonin et al. or Thomas, Jr.. As such, both the Bonin et al. and the Thomas Jr. references should not qualify as prior art. With both references removed, it is respectfully submitted that, since all rejections in the Office Action are based on either Bonin et al. and Thomas Jr., or Bonin et al. and another reference, all rejections should be withdrawn.

III. CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any additional fees associated with filing of this Response, please charge the same to our Deposit Account No. 19-3935.

Finally, if there are any formal matters remaining after this Response, the Examiner is requested to telephone the undersigned to attend to these matters.

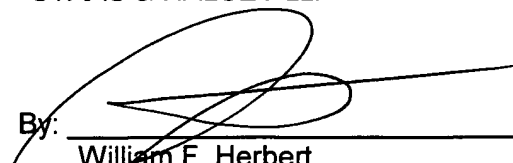
Respectfully submitted,

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8/25/06

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